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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/315,707	05/20/1999	ERIK C. SCHYLANDER	PHN-16.938	6850

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EXAMINER	
BOCCIO, VINCENT F	
ART UNIT	PAPER NUMBER
2615	

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/315,707

Applicant(s)
Schylander

Examiner
Boccio, Vincent

Art Unit
2615



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 20, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-51 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-51 are rejected under 35 U.S.C. 102(b) as anticipated by David(WO 98/09290 or, in the alternative, under 35 U.S.C. 103(a) as obvious over David(WO 98/09290. Regarding claims 9-51, David discloses and meets the limitations associated with a method and apparatus for
 - o reproducing from a carrier(Fig. 1 from, "medium 1"),
 - o comprising:
 - video related user data,
 - variable control data operating on user and system variables {default or modified},
 - play control data,
 - selection control data,

user data items which are playable

(page 7, "language", "subtitle", "rating", "There are 32 read re-writable variables numbered 0-31", "initialized to zero", therefore set for a default or initial setting, which dictate initial, when modified therefore, variable, dictate different functionalities or selections, presentations, such as language, branching thru interactive); wherein

variable control data for operating on user as well as system variables,

wherein the variable control data comprises:

- o at least one conditional instruction(page 8, line 1, "System variables describe the state of the playback and provide means to change the state", playback can be conditional

- line 34, "comparisons", page 9, "If-then-else", which can be used with other operators, including add, subtract, divide, "or", "and" etc....);

- o wherein variable control data for operating on user and system variables(see above etc.....), wherein the variable control data comprises

- at least one conditional instruction,
"wherein each instruction of the at least one conditional instruction includes an operation code and operands, wherein the operation code includes an operation portion denoting an operation and a condition portion denoting a condition, wherein

the operation is to be executed if the condition is TRUE, wherein the operation is not to be executed if the condition is FALSE and wherein the operation is adapted to be performed in conjunction with at least one of said operands".

To clarify, the rejection of all the claims presented, based on the arguments presented,

- o conditional instruction, wherein a condition is defined as "state of an expression, when a result can be true or false" and

operand is defined as "a mathematical operation", or "a computer instruction"

- o met by the utilization of "IF then else", page 9, with operation code and operands page 8,

- o utilizing comparisons, which include (=, > and <), as is obvious and well known, which can be used in conjunction with mathematical operations (page 9 and other).

It is noted by the examiner that David provides for all as claimed in all the claims and as the examiner has done some of his own programming and realizes, how these statements can be create, used together, therefore, the examiner considers all recited combinations, as being inherent combination as intended by the inventor of this reference and what is considered to be well known, programming data structures, can be created with the

statements, operators, comparisons operations, making decisions to branch, thru interaction or by default.

The examiner further incorporates all reasoning and interpretation made previous to this action, and further states for the second time, on the alternative, the examiner takes official notice, that conditional as well as arithmetic etc.... programming data structures can be used together, for example in "If Then Else", "True - False", conditions associated with system as well as user variables {arithmetic as well as others}, can be used and provides interactive functionality, using play lists and conditional instructions provide for interactive functionality with the user, or interactive playback, using default as well as system variables, etc.,

if David some how is determined, as applicants states, not to suggest and render inherent the ability to create and use together provides programming functionality elements, as shown suggested by David, as presently claimed, as desired to create a desired interactive sessions,

it would have been obvious to those skilled in the art at the time of the invention with David in from of themselves, with a careful consideration of what David shows, suggests, that since no arguments, or suggestions from David to the contrary,

that more complex "If then else", statements as well as other operations as claimed, are considered to be obvious to

those skilled in the art, to utilize more complex programming data structures, as is obvious to those skilled in the art, as is well known to those skilled in the art.

Response to Arguments

3. Applicant's arguments filed 12/2/02 have been fully considered but they are not persuasive.

{A} In re page 11, applicant states, in summary, David fails to teach claim 9, 27, 40, having variable control data comprising at least one conditional instruction

each instruction of the at least one of the conditional instruction includes an operation code and operands, having an operation and a condition, True or False.

In response, the claims utilize, what is considered to be known, suggested or even obvious data structures, throughout all the claims, all considered to be well known generic programming data structure combinations, which the examiner believes is suggested by David, with no suggestion to the contrary by David.

The examiner had requested a response from applicant in the argument section of the last action pages 5-6, requesting applicant to prove that conditional as well as arithmetic data structures cannot be used together and to support applicant conclusion that David does not suggest the combination of programming data structures {argument incorporated herein}.

It is noted, applicant has not requested anything evidence associated with what the examiner known to be well known under the 103 part of last action, based on the "OFFICIAL NOTICE TAKEN", required to be requested upon next action by applicant, therefore will not be provided, herein or hereafter, due to the seasoned challenge, not being met.

In conclusion, in view of the generic programming data structures claimed, all considered to be a combination of what David shows, and suggests or even combinations obvious to those skilled in the art of programming

the primary examiner respectfully requires applicant to IDENTIFY and provide the prior art programming language or even languages, intended or to be used {base on Fig. 5}, having the well known TRUE/FALSE, conditional statements, such as, "If then else",

as applicant is not considered to be the creator of a new programming language, but is using available programming languages providing these data structures, considered to be well known data structures, as the examiner is aware.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant

is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


Contact Information

5. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Vincent F. Boccio (703) 306-3022.

If any attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Andy Christensen (703) 308-9644.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vin
March 8, 2003


VINCENT BOCCIO
PRIMARY EXAMINER